

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

14

Benjamin Allen Switek, PRO SE,

Plaintiff,

**F I L E D**  
NOV 28 2022

Case No.: 21-12184

Hon. Matthew F. Leitman

Mag. Judge Curtis Ivy, Jr.

MIDLAND COUNTY, et al,  
Defendants.

BENJAMIN ALLEN SWITEK  
PRO SE, PLAINTIFF  
CHIPPEWA CORRECTIONAL FACILITY  
4269 West M-80  
Kincheloe, Mich., 49784

TIMOTHY S. FERRAND (P39583)  
Cummings, Mc.Clorey, Davis & Acho, PLLC.  
Attorney for Defendants  
19176 Hall Road, Suite 220  
Clinton Township, Mich., 48038  
(586) 228-5600  
[tferrand@cmda-law.com](mailto:tferrand@cmda-law.com)

PLAINTIFF'S MOTION TO COMPEL DEFENDANTS' TO PROVIDE ALL  
ANSWERS TO THEIR FIRST INTERROGATORIES AND REQUESTS  
FOR PRODUCTION OF DOCUMENTS

PRO SE Plaintiff, Benjamin Allen Switek, by and through his vested Constitutional rights of these United States, states as follows for his Motion to Compel All Answers to their First Interrogatories and Requests for Production of Documents.

Plaintiff rely's on the law and facts in the attached brief in support of this motion.

Currence in this motion has been sought because the movant is an incarcerated prisoner proceeding pro se.

WHEREFORE, for all these reasons and for those in the attached brief, Plaintiff respectfully request this Honorable

Court enter an Order requiring Defendants to provide all answers to their First Interrogatories and Requests for production of Documents, ALL of them they have recieved.

Respectfully Submitted,  
Benjamin A. Switek, PRO SE,  
(without Prejudice V.C.G. 1-308/1-207)

BY: BENJAMIN A. SWITEK  
Benjamin A. Switek  
4269 West M-80  
Kincheloe, Mich., 49784

Dated: November 18, 2022

"ALL RIGHTS RESERVED WITHOUT PREJUDICE"

(PR: 2012)

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

Benjamin Allen Switek, PROSE,  
Plaintiff,

V.

MIDLAND COUNTY, et al,  
Defendants.

Case No.: 21-12184

Hon. Matthew F. Leitman

Mag. Judge Curtis Ivy, Jr.

BENJAMIN ALLEN SWITEK  
PROSE PLAINTIFF  
CHIPPEWA CORRECTIONAL FACILITY  
4269 West M-80  
Wincheloe, MICH., 49784

TIMOTHY S. FERRAND (P34583)  
Cummings, Mc.Clorey, Davis & Aho, PLC  
Attorney For Defendants  
19176 Hall Road, Suite 220  
Clinton Township, MICH., 48038  
(586) 228-5600  
tferrand@cnda-law.com

BRIEF REGARDING PLAINTIFF'S MOTION TO COMPEL DEFENDANTS'  
TO PROVIDE ALL ANSWERS TO THEIR FIRST INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF DOCUMENTS

STATEMENT OF RELEVANT FACTS

PROSE Plaintiff Benjamin Allen Switek filed a lawsuit against Midland County, Isabella County, Chippewa County, and the Michigan Parole Board. Due to violations of the Fifth, Sixth, Eighth, Ninth, Tenth, and Fourteenth Amendments to the United States Constitution, Mr. Switek asserts that he suffers with violated liberty interests. While incarcerated, the jail "kept/destroyed" a civil action that he tried to file and destroyed his mail, and asserts violations of the "COVID-19 Pandemic/Delta Variant". Finally, Mr. Switek asserts violations of his Affidavit Reservation of Rights U.C.G. 1-308 (formally 1-207).

Defendants served Plaintiff with interrogatories and requests for production of documents, and Defendants received responses, the responses are adequate. (Ex. A, B, C, proof of evidence). Plaintiff had placed documents "in [his] civil docket" and/or already answered the questions three times. Defendants say they have received no previous responses to this Discovery requests from Plaintiff. Plaintiff objects, furthermore Defendants appear to be mistaken as to how discovery works under the Federal Rules of Civil Procedure. It is not incumbent upon Plaintiff to fill out numerous documents because Defendants' don't agree to the outcome of their discovery requests. Plaintiff provided the documents and information three times, twice directly to Defendants to their attorney's address, and once to the courts, through the U.S. Postal Service.

(PR: UNEL2)

## LAW AND ARGUMENT

Parties may obtain discovery regarding any nonprivileged matter that is relevant to any parties claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.

Parties are entitled to propound interrogatories and requests for production of documents in Discovery pursuant to Fed. R. Civ. P., the propounding party is not entitled to move to compel responses to these discovery requests if the responding party answered interrogatory submitted or produced documents as requested under Fed. R. Civ. P.. Why have the Defendants' failed to send there discovery materials. When plaintiff requested any and all information.

Plaintiff answered every request, he had already sent the information to the Defendants', or objected to it. Plaintiff has sent proof to the courts of (EXPEDITED LEGAL MAIL-RECEIPTS) showing he has done what was required.

Plaintiff is entitled to know what Defendants' have done, what injuries and damages they have caused, and what evidence they have. Plaintiff would like the Defendants' to stop harrasing with these frivolous requests.

Contrary to Defendants' responses, Plaintiff has respectfully sent information or documents responsive to those discovery requests. Plaintiff has no idea what Defendants' are referring to when they claim to not have recieved information in response to Requests to Produce Interrogatory Questions. Nor has Plaintiff recieved any of the information and documents he requested in response to Discovery purposes.

As for the information Defendants' have in response to Requests for Production, Plaintiff can only surmise that defendants have some responsive information and/or documents within the hundreds of pages of intelligible writings he has properly sent. Plaintiff provided the documents and information directly to Defendants' through United States Postal Service.

### RELIEF REQUESTED

WHEREFORE, for all these reasons, Plaintiff respectfully requests this Honorable Court enter an Order requiring the Defendants' to provide All answers to their First Interrogatories and Requests for Production of Documents. To Order Defendants to send any and all Discovery materials to plaintiff. To pay any court costs, and attorney fees in the filing of this motion.

Respectfully Submitted,  
Benjamin A. Switek, PROSE,  
(Without Prejudice U.C.C. 1-308/1-209)

BY: BENJAMIN A. SWITEK

Benjamin A. Switek  
4269 West M-80  
Wincheloe, Mich., 49784

Dated: November 18, 2022

CERTIFICATE OF SERVICE

I hereby certify that on November 18, 2022, I filed the foregoing paper with the Clerk of the Court using the U.S. Mail which will send notification of such filing to the attorneys of record, and I hereby certify that I have mailed by United States Postal Service the paper to the following participants: Timothy S. Ferrand (P39583), 19176 Hall Road, Suite 220, Clinton Township, Mich., 48038.

PROSE PLAINTIFF

BY: BENJAMIN A. SWITEK

"ALL RIGHTS RESERVED WITHOUT PREJUDICE"

## PROOF OF SERVICE

On the date below, I delivered a copy of the foregoing pleading to: Timothy S. Ferrand, 19176 Hall Road, Suite 220, Clinton Township, Mich, 48038

By: X Regular First-Class Mail with Proper Postage

I declare that the statements above are true to the best of my information, knowledge, and belief.

Dated: November 18, 2022

Benjamin A. Switek, PROSE,  
(without Prejudice U.C.C. 1-308/1-207)

"ALL RIGHTS RESERVED WITHOUT PREJUDICE"

EXHIBIT A - (PG: 10)

EXHIBIT B - (PG: 11)

EXHIBIT C - (PG: 12)

PROOF OF DEFENDANTS  
GETTING THERE ANSWERS OF  
FIRST INTERROGATORIES  
AND REQUESTS SENT IN  
THE MAIL TO THERE  
ATTORNEY AND THE COURTS

(PG: 9 OF 12)

**EXHIBIT A**

MICHIGAN DEPARTMENT OF CORRECTIONS

CSJ-318

DISBURSEMENT AUTHORIZATION (EXPEDITED LEGAL MAIL - PRISONER)

REV. 11/15 4835-3318

Please PRINT clearly, illegible and/or incomplete forms will not be processed.

Lock B.401 Institution URF. - CHIPPEWA CORRECTIONALPrisoner Number #767054 Prisoner Name Benjamin Allen Switek  
Type or Print Clearly☒ Legal Postage ☐ Filing Fee \$ ☒ Certified Mail (Must Be a Court Ordered Requirement)☐ New Case ☒ Case Number 21-12184 - (got in the mail today)  
8/30/2022Pay To MAIL ROOM (34 PAGES SENT OUT)Mailing Address 600 CHURCH STREET  
FLINT, MICH., 48502\*NOTE: DEFENDANT'S first interrogatories and requests for production of documents to plaintiff.Prisoner Signature Benjamin Switek Date & Time Submitted 1Received by P.C. Hall Staff Signature P.C. Hall  
Type or Print Name & TitleDate & Time Received by Authorizing Staff 8/31/22 0830

Authorization Denied

☐ Does not meet definition of legal mail or court filing fee as identified in OP 05.03.118  
☐ Not hand delivered to authorizing staff member ☐ New case or case number not on form  
☐ Does not include court order for handling as certified mail ☐ Other (explain)  
☐ Prisoner refused to sign & date in staff member's presenceDenied by \_\_\_\_\_ Signature \_\_\_\_\_  
Type or Print Name & TitlePlaced in Mail by Thk Signature Thk  
Type or Print Name & TitlePostage Amount \$ 240 Date Placed in Outgoing Mail 8/31/22Postage \$ \_\_\_\_\_ Total Obligation \$ \_\_\_\_\_ ☐ Court Filing Fee Denied Due to NSF

Filing Fee \$ \_\_\_\_\_ Check # \_\_\_\_\_

Date Copy Sent to Prisoner \_\_\_\_\_

Processed by \_\_\_\_\_ Signature \_\_\_\_\_  
Type or Print Name & TitleDISTRIBUTION: ☐ Prisoner Accounting ☐ Prisoner ☐ Counselor's File ☐ Prisoner

(Pg. 10 of 12)

**EXHIBIT B**

MICHIGAN DEPARTMENT OF CORRECTIONS

CSJ-318

DISBURSEMENT AUTHORIZATION (EXPEDITED LEGAL MAIL - PRISONER)

REV. 11/15 4835-3318

Please PRINT clearly, illegible and/or incomplete forms will not be processed.

Lock H-461 Institution V.R.F. - CHIPPEWA COUNTY  
 Prisoner Number #767054 Prisoner Name Benjamin Allen Switek  
☒ Legal Postage ☐ Filing Fee \$ ☐ Certified Mail (Must Be a Court-Ordered Requirement)  
☐ New Case ☒ Case Number #21-12184  
 Pay To MAIL ROOM - SENDING 8 PAGES IN STAMPED ENVELOPE  
 Mailing Address TIMOTHY S. FERRAND  
19176 HALL ROAD, SUITE 220  
CLINTON TOWNSHIP, MICH., 48038  
\* THE SECOND RELEASE FORMS THAT I HAVE SENT AND FILED.

Prisoner Signature Benjamin G. Switek Date & Time Submitted 1  
 Received by P.C. Wallick Staff Signature P.C.V.  
 Type or Print Name & Title P.C. Wallick  
 Date & Time Received by Authorizing Staff 9/2/21 0836  
 Authorization Denied  
☐ Does not meet definition of legal mail or court filing fee as identified in OP 05.03.118  
☐ Not hand delivered to authorizing staff member ☐ New case or case number not on form  
☐ Does not include court order for handling as certified mail ☐ Other (explain)  
☐ Prisoner refused to sign & date in staff member's presence

Denied by \_\_\_\_\_ Signature \_\_\_\_\_  
 Type or Print Name & Title \_\_\_\_\_

Placed in Mail by [Signature] Signature [Signature]  
 Type or Print Name & Title \_\_\_\_\_  
 Postage Amount \$ .81 Date Placed in Outgoing Mail 9-7-2022

Postage \$ \_\_\_\_\_ Total Obligation \$ \_\_\_\_\_ ☐ Court Filing Fee Denied Due to NSF  
 Filing Fee \$ \_\_\_\_\_ Check # \_\_\_\_\_  
 Date Copy Sent to Prisoner \_\_\_\_\_  
 Processed by \_\_\_\_\_ Signature \_\_\_\_\_  
 Type or Print Name & Title \_\_\_\_\_

DISTRIBUTION: ☐ Prisoner Accounting ☐ Prisoner ☐ Counselor's File ☐ Prisoner

(PG: 11 OF 12)

**EXHIBIT C**

MICHIGAN DEPARTMENT OF CORRECTIONS

CSJ-318

DISBURSEMENT AUTHORIZATION (EXPEDITED LEGAL MAIL - PRISONER)

REV. 11/15 4835-3318

Please PRINT clearly, illegible and/or incomplete forms will not be processed.

Lock B-1101Institution D.M.F. - CHIPPEWA COUNTYPrisoner Number #767054

Prisoner Name

Type or Print Clearly

Benjamin Allen Smith☒ Legal Postage☐ Filing Fee

\$

☐ Certified Mail (Must Be a Court Ordered Requirement)☐ New Case☒ Case Number# 21-12184

Pay To

MAIL ROOM(SENT 24 pages in stamped envelope in mail)

Mailing Address

TIMOTHY S. FERRAND19476 HALL ROAD, SUITE 220CLINTON TOWNSHIP, MICH. 48038\* NOTE: SECOND INTERROGATORY RESPONSE SENT OUT

Prisoner Signature

Benjamin A. Smith

Date &amp; Time Submitted

Received by

Type or Print Name &amp; Title

P.O. VALLIANT

Staff Signature

P.O. Valliant

Date &amp; Time Received by Authorizing Staff

10/11/229:30

Authorization Denied

☐

Does not meet definition of legal mail or court filing fee as identified in OP 05.03.118

☐

Not hand delivered to authorizing staff member

☐

New case or case number not on form

☐

Does not include court order for handling as certified mail

☐

Other (explain)

☐

Prisoner refused to sign &amp; date in staff member's presence

Denied by

Type or Print Name &amp; Title

Signature

Placed in Mail by

Type or Print Name &amp; Title

Signature

Postage Amount

\$ 5.11

Date Placed in Outgoing Mail

Postage

\$

Total

Obligation

\$

☐ Court Filing Fee Denied Due to NSF

Filing Fee

\$

Check #

Date Copy Sent to Prisoner

Processed by

Type or Print Name &amp; Title

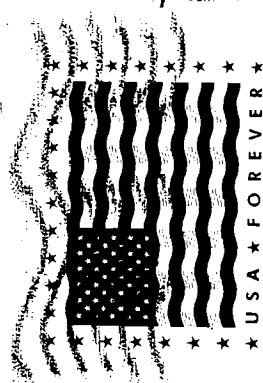
Signature

DISTRIBUTION: ☐ Prisoner Accounting ☐ Prisoner ☐ Counselor's File ☐ Prisoner(PG: 12 OF 12)

Name Benjamin A. Swiatek  
Number #767054  
Address 4269 W. M-80  
Address KIRKHELGE, MICH, 49784

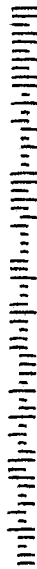
TRAVERSE CITY MI 49606

Postmark not  
lesible



RECEIVED  
NOV 28 2022  
U.S. DISTRICT COURT  
FLINT, MICHIGAN

DEPUTY CLERK  
600 CHURCH ST.  
FLINT, MICH., 48502



48502-120099

(LEGAL MAIL)

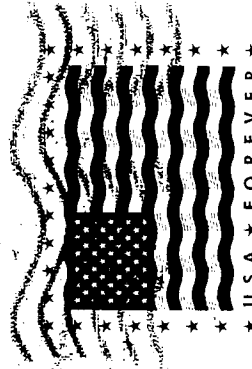
(OFFICIAL BUSINESS)

Motion w/exhibits mailed  
in two envelopes.

Name BENJAMIN L. SWITCH  
Number #767054  
Address 4269 W. M-80  
Address KINCHELOE, MICH, 49784

TRAVERSE CITY MI 496

Postmark not  
legible



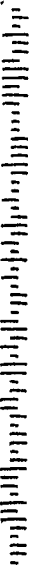
RECEIVED  
NOV 28 2022

U.S. DISTRICT COURT  
FLINT, MICHIGAN

DEPUTY CLERK

600 CHURCH ST.  
FLINT, MICH, 48502

48502-120099



(LEGAL MAIL)

(OFFICIAL BUSINESS)